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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of	:	Customer Number: 46320
	:	
Jason BLAKELY, et al.	:	Confirmation Number: 3618
	:	
Application No.: 09/577,722	:	Group Art Unit: 2178
	:	
Filed: May 23, 2000	:	Examiner: C. Huynh
	:	
For:		METHOD AND SYSTEM FOR DYNAMIC CREATION OF MIXED LANGUAGE HTML CONTENT THROUGH MT

**APPEAL BRIEF**

Mail Stop Appeal Brief - Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This Appeal Brief is submitted in support of the Notice of Appeal filed January 16, 2007, wherein Appellants appeal from the Examiner's rejection of claims 1-12.

**I. REAL PARTY IN INTEREST**

This application is assigned to IBM Corporation by assignment recorded on May 23, 2000, at Reel 010845, Frame 0744.

**II. RELATED APPEALS AND INTERFERENCES**

A Decision was issued by the Board of Patent Appeals and Interferences (hereinafter the Board) in the present application on September 28, 2006.

### **III. STATUS OF CLAIMS**

Claims 1-12 are pending and four-times rejected in this Application. It is from the multiple rejections of claims 1-12 that this Appeal is taken.

### **IV. STATUS OF AMENDMENTS**

The claims have not been amended subsequent to the imposition of the Fourth Office Action dated January 3, 2007 (hereinafter the Fourth Office Action).

### **V. SUMMARY OF CLAIMED SUBJECT MATTER**

Independent claims 1, 4, and 7 are respectively directed to a method, system, and program product for dynamically creating mixed language HTML content in text through the use of machine translation. As recited in the claims, an HTML "lang" attribute is used to designate a target language to which a demarcated portion of the text is to be translated. By utilizing the "lang" attribute, multiple machine translation decisions can be performed within a single markup language page to create a mixed language document (paragraph spanning pages 5 and 6 of the specification). Specifically, while portions of the document are translated into one language, other portions of the same document can be translated into another language. By creating a facility for performing the mixed language translation of content within one document, single documents can be translated into mixed language output automatically and "on the fly" so as to support the translation of different parts of an HTML page from any language into any other

Referring specifically to Figure 2 and to independent claims 1, 4, and 7 a method and system of method of determining a target language for automatic programmatic translation of text in a first language is disclosed. In 502, text is created in a first language, and the text is within in a single discreet document (page 5, lines 6-7 and page 7, lines 12-16 of Appellants'

disclosure). In 504, a HTML 'lang' attribute is used to set at least one target language for a portion of the text, which is different from the first language (page 8, lines 1-2, 7-8). In 507, the portion having the first language is automatically programmatically translated into the at least one target language with said 'lang' attribute as a key for the machine translation to produce a mixed translation of the text (page 8, lines 8-12).

## **VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

1. Claims 1, 3-4, 6-7, and 9 were rejected under 35 U.S.C. § 102 for anticipation based upon Lakritz, U.S. Patent No. 6,623,529;
2. Claims 2, 5, and 8 were rejected under 35 U.S.C. § 103 for obviousness based upon Lakritz in view of Grefenstette, U.S. Patent No. 6,396,951; and
3. Claims 10-12 were rejected under 35 U.S.C. § 103 for obviousness based upon Lakritz.

## **VII. THE ARGUMENT**

### **THE REJECTION OF CLAIMS 1, 3-4, 6-7, AND 9 UNDER 35 U.S.C. § 102 FOR ANTICIPATION BASED UPON LAKRITZ**

For convenience of the Honorable Board in addressing the rejections, claims 3-4, 6-7, and 9 stand or fall together with independent claim 1.

#### **Prosecution History**

In the second Office Action dated May 7, 2004, the Examiner rejected claims 1-9 under 35 U.S.C. § 102 for anticipation based upon Lakritz. In an Amendment filed August 9, 2004, Appellants responded to this rejection on page 8 by arguing:

Importantly, Lakritz provides for the translation of the entirety of a document into a single target language. In the Applicant's invention, however, a document can be translated into mixed languages within a single document. Specifically, portions of the document can be translated into one language, while other portions of the same document can be translated into another language. So much can be accomplished through the inventive use of the HTML 'lang' attribute which can be applied to demarcate portions of the document for translation into a specific language. This capability is not evident within the teachings of the Lakritz specification, and particularly within Figure 12 and its accompanying text. (Emphasis in original)

In the Final Office Action dated October 24, 2004 (hereinafter the Third Office Action), the Examiner maintained the same rejection of independent claims 1, 4, and 7. In the statement of the rejection on page 3 of the Final Office, the Examiner asserted:

automatically programmatically translating the portion having the first language into said at least one target language with said 'lang' attribute as a key for machine translation in order to produce a mixed translation of the text (**col 6, lines 3-34**: "This allows ..., such that only a portion of the document on the site need be translated ... this also gives the customer the option of translating only a subset of the total content on the site..."; the fact that only a portion of the documents on the site need to be translated shows that the translated portion has a target language which is different from the language used for the entire web documents, the web documents are produced as a mixed translation of the text; **figure 5, #505**; the Language-specific elements implies that the specific element in a document is translated into a target language which is different from the language of the entire documents) (Emphasis in original)

In the ***Response to Arguments*** portion on page 7 of the Third Office Action, the Examiner also asserted:

Lakritz, besides disclosing the translation of the entire document into a single target language as mentioned in the previous office action, also discloses a mixed translation of an HTML document where a portion of text in a language is translated to another language as mentioned in the claim rejection above.

In a Request for Reconsideration filed January 24, 2005, Appellants' response, in part, to these assertions by the Examiner is as follows:

In response, the Applicants respectfully traverse the rejections on the art which can be summarized as follows. Lakritz teaches only the translation of HTML content into a single target language as defined by "the current language" selected based upon the preferred language for a Web site visitor. No where in Lakritz is it ever suggested that a single document can include two or more different languages within the single document ...

Turning now to the rejections on the art, Lakritz relates to a multilingual electronic document translation, management, and delivery system. In the preferred embodiment of the Lakritz invention, the language (that is to say, only one language) and country of a Web site visitor can be automatically determined. Consequently, the Web server hosting the content can be directed to serve the content in a language (again, only one language) corresponding to that of the Web site visitor. In this way, language independent content can be developed and deployed to

Web site visitors flexibly without requiring different Web site versions for different visitors from different countries. (Emphasis in original)

In an Advisory Action dated March 7, 2005, the Examiner responded to Appellants arguments by (twice) quoting column 6, lines 3-34 of Lakritz. Both quotes by the Examiner read as follows: "This allows ... such that only a portion of the document on the site need be translated ... this also gives the customer the option of translating only a subset of the total content on the site ..." The Examiner then concluded:

Clearly, the fact that "only a portion of the document on the site need to be translated" or "translating only a subset of the total content on the site" show a mixed translation of the document since there are two languages included in the document, one language for the translated portion, and one language for the remaining content of the document. In other words, there are different languages included within a single document.

In the Appeal Brief dated May 20, 2005, Appellants noted that the Examiner has placed great emphasis on the disclosure found in column 6, lines 3-34 of Lakritz. Specifically with regard to the phrase "only a portion of the document on the site need be translated," the Examiner placed this phrase in italics and underline in the Third Office Action and quoted this phrase three times in the Advisory Action. The following is a correct quote from column 6, lines 21-25 of Lakritz:

This allows a multilingual Web site to be built incrementally, such that only a portion of the documents on the site need be translated and documents not available in a requested language will be served in the next most appropriate language for a Web site visitor.

Thus, the phrase repeatedly cited by the Examiner actually reads "only a portion of the documents on the site need be translated" (emphasis added). This misquotation of Lakritz has lead the Examiner to mistakenly believe that "there are different languages included within a single document." Instead, by referring to documents, Lakritz only explicitly discloses the portions (i.e., single documents) need be translated, which is consistent with Appellants' prior argument that Lakritz is directed to a system that translates the entirety of a document into a

single target language.

In the Examiner's Answer dated March 3, 2006, the Examiner corrected the quote from column 6, lines 21-25 of Lakritz. The Examiner then proceeded to introduce an entirely different argument as to how Lakritz identically discloses the claimed invention. Specifically, on page 7 of the Examiner's Answer, the Examiner asserted the following:

Appellants argue that "a portion of the text" must be a portion of one single document. However, there is no such claimed requirement. The claim only requires "creating text in the first language." Lakritz, in column 5, lines 10-13, discloses that the master site content is in a language, which means that the created text of the master site is in a first language. Lakritz further discloses that some of the documents in the website are translated in a second language (col 6, lines 21-34). Thus, *a portion of the text of the website* is in a second language. Therefore, *the entire text of the website is in a mixed language*. In other words, the entire text of the website is produced as a mixed translation of the text. (emphasis in original)

In the Reply Brief dated June 5, 2006, Appellants responded to this new argument by noting that the Examiner has apparently defined the term "text," when used with regard to a website, as referring to all the documents in a website. Appellants further argued that the Examiner's assertion the term "text" refers to all the documents in a website is neither factually supported nor supported by the plain and ordinary meaning of the term "text" itself.

In the Decision dated September 28, 2006, the Board upheld the rejection while stating that "[n]othing in the claims on appeal limits 'text' to a single document ... [t]hus, we find that it was reasonable for the examiner to apply the 'term' to all of the documents at the website." Based upon the Board upholding the Examiner's decision, not on that Lakritz still identically discloses the claimed invention based upon Appellants' interpretation of the phrase "text," but instead, on the Examiner's interpretation of the phrase "text," Appellants amended the independent claims to more clearly define the invention so as to be consistent with Appellants'

prior assertions as to the scope of the claimed invention. Appellants presumed that if the Board believed that based upon Appellants' interpretation of the claimed language, the claims were still identically disclosed by Lakritz, then the Board would have included this belief in the Decision.

In the Fourth Office Action dated January 3, 2007, the Examiner maintained the same rejections for all of the claims. In response to the added limitations (i.e., "the text being in a single discreet document") to independent claims, the Examiner cited column 7, lines 3-30 of Lakritz, which for ease of reference is reproduced below:

The advantage to using templates is that a single document can easily support many languages and countries. For example, a single form or CGI-generated document can be constructed so that it will be automatically, localized for different languages and locales. This significantly reduces the number of documents that have to be maintained on the site and makes it very easy to add new languages. It also allows a single update to a document to be immediately propagated to all languages and countries.

This technique allows country or regional content to be conveniently separated from the structure of the document, thereby making it easy to change a design often by updating a single file. This in turn eliminates the ripple effect often seen when a single change must propagate through all of the localized documents on the site. This allows the Web Server 503 to control the locale-independent templates 504, language-specific elements 505, country-specific elements 506, and static HTML content 507.

The invention also allows multilingual content to be served even if an HTML file is not specially tagged (i.e., the file is an ordinary HTML file, not a template). When an ordinary HTML file is served, the HTML is parsed and the translatable text is extracted in the same manner as if it had been specially tagged. The corresponding translations are retrieved from one or more language databases and served.

The parser uses a rules-based approach to identify translatable text in an HTML document. The rules are specified in an external rules definition file.

Absent from this citation, however, is a teaching that only a portion of a single discreet document is translated. As previously argued many times by Appellants, Lakritz teaches translating whole documents into different languages. This teaching by Lakritz, however, does not identically disclose the claimed invention, which is directed to translating portions of a single discreet document.

Disturbingly, however, is the Examiner's citation to column 6, lines 3-34. In particular,



Appellants note that the Examiner has **repeated** the error previously addressed by Appellants in the First Appeal Brief, by asserting on page 3 of the Fourth Office Action that Lakritz teaches "that only a portion of the document on the site need be translated" (emphasis in original). As previously noted by Appellants, the following is the correct quote from column 6, lines 21-25 of Lakritz:

This allows a multilingual Web site to be built incrementally, such that only a portion of the documents on the site need be translated and documents not available in a requested language will be served in the next most appropriate language for a Web site visitor.

Thus, the phrase twice-repeated by the Examiner on page 3 of the Fourth Office Action actually reads "only a portion of the documents on the site need be translated" (emphasis added). This misquotation of Lakritz has lead the Examiner to mistakenly believe that "there are different languages included within a single document."

Appellants recognize the Examiner's need to rely upon this particular passage within Lakritz because this is the only passage within Lakritz cited by the Examiner that refers to a "portion." All of the other passages in Lakritz, which were cited by the Examiner, are silent as to a portion of the document being translated. For example, the examiner cited column 5, lines 41-49 to teach the claimed "using an HTML 'lang' attribute to set at least one target language for a portion of the text which is different from the first language." However, a review of this passage fails to yield a teaching that only a portion of the text is marked to be translated.

This error by the Examiner is disturbing in that Appellants have extensively addressed this error in past arguments. Moreover, the Examiner has acknowledged that the error occurred in the Examiner's Answer by providing a proper quote and by changing the Examiner's argument with regard to what Lakritz is teaching vis-à-vis what is being claimed by redefining the

definition of the term "text." The Examiner, however, has come full circle and is making arguments based upon factual assertions regarding the teachings of Lakritz that have been both discredited by Appellants in numerous filings and also previously abandoned by the Examiner.

For the reasons set forth above and already presented in the prior Appeal Brief and Reply Brief, Appellants respectfully submit that the Examiner has failed to establish that Lakritz either explicitly or inherently identically discloses the above-identified limitations within the meaning of 35 U.S.C. § 102. Appellants, therefore, respectfully submit that the Examiner's rejection of claims 1, 3-4, 6-7, and 9 under 35 U.S.C. § 102 for anticipation based upon Lakritz is not viable.

**THE REJECTION OF CLAIMS 2, 5, AND 8 UNDER 35 U.S.C. § 103 FOR OBVIOUSNESS  
BASED UPON LAKRITZ IN VIEW OF GREFENSTETTE**

For convenience of the Honorable Board in addressing the rejections, claims 2, 5, and 8 stand or fall together with independent claim 1.

Claims 2, 5, and 8 are patentable at least based upon their dependency respectively to independent claims 1, 4, and 7. As discussed above, the Lakritz fails to explicitly or inherently identically disclose all the limitations recited in independent claims 1, 4 and 7. Furthermore, the Examiner has not established that the Examiner's secondary reference of Grefenstette overcomes the previously argued deficiencies of Lakritz.

**THE REJECTION OF CLAIMS 10-12 UNDER 35 U.S.C. § 103 FOR OBVIOUSNESS BASED  
UPON LAKRITZ IN VIEW OF GREFENSTETTE**

For convenience of the Honorable Board in addressing the rejections, claims 10-12 stand or fall together with independent claim 1.

Claims 10-12 are patentable at least based upon their dependency respectively to independent claims 1, 4, and 7. As discussed above, the Lakritz fails to explicitly or inherently identically disclose all the limitations recited in independent claims 1, 4 and 7.

**Conclusion**

Based upon the foregoing, Appellants respectfully submit that the Examiner's rejections under 35 U.S.C. §§ 102, 103 are not factually or legally viable. Appellants, therefore, respectfully solicit the Honorable Board to reverse the Examiner's rejections under 35 U.S.C. §§ 102, 103.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due under 37 C.F.R. §§ 1.17, 41.20, and in connection with the filing of this paper, including extension of time fees, to Deposit Account 09-0461, and please credit any excess fees to such deposit account.

Date: January 16, 2007

Respectfully submitted,

/Scott D. Paul/  
Scott D. Paul  
Registration No. 42,984  
Steven M. Greenberg  
Registration No. 44,725  
CUSTOMER NUMBER 46320

## **VIII. CLAIMS APPENDIX**

1. A method of determining a target language for automatic programmatic translation of text in a first language, comprising the steps of:

creating text in the first language, the text being in a single discreet document;

using an HTML 'lang' attribute to set at least one target language for a portion of the text which is different from the first language; and,

automatically programmatically translating the portion having the first language into said at least one target language with said 'lang' attribute as a key for machine translation in order to produce a mixed translation of the text.

2. The method of Claim 1, further comprising the step of:

using Language Guessing to determine the first language.

3. The method of Claim 1, wherein said at least one target language comprises a plurality of languages resulting in translation into a mixed language content.

4. A system for determining a target language for automatic programmatic translation of text in a first language, comprising:

creating text in the first language, the text being in a single discreet document;

using an HTML 'lang' attribute to set at least one target language for a portion of the text which is different from the first language; and,

automatically programmatically translating the portion having the first language into said

at least one target language with said 'lang' attribute as a key for machine translation in order to produce a mixed translation of the text.

5. The system of Claim 4, further comprising:

using Language Guessing to determine the first language.

6. The system of Claim 4, wherein said at least one target language comprises a plurality of languages resulting in translation into a mixed language content.

7. A computer program product recorded on computer readable medium for determining a target language for automatic programmatic translation of text in a first language, comprising:

creating text in the first language, the text being in a single discreet document;

using an HTML 'lang' attribute to set at least one target language for a portion of the text which is different from the first language; and,

automatically programmatically translating the portion having the first language into said at least one target language with said 'lang' attribute as a key for machine translation in order to produce a mixed translation of the text.

8. The program product of Claim 7, further comprising:

using Language Guessing to determine the first language.

9. The program product of Claim 7, wherein said at least one target language comprises a plurality of languages resulting in translation into a mixed language content.

10. The method of Claim 1, further comprising the step of:

using a second 'lang' attribute to set an additional target language for another portion of the text which is different from the first language and the language specified by said HTML 'lang' attribute; and,

automatically programmatically translating the another portion having the first language into said additional target language with said second 'lang' attribute as a key for machine translation.

11. The system of Claim 4, further comprising:

using a second 'lang' attribute to set an additional target language for another portion of the text which is different from the first language and the language specified by said HTML 'lang' attribute; and,

automatically programmatically translating the another portion having the first language into said additional target language with said second 'lang' attribute as a key for machine translation.

12. The program product of Claim 7, further comprising:

using a second 'lang' attribute to set an additional target language for another portion of the text which is different from the first language and the language specified by said HTML 'lang' attribute; and,

automatically programmatically translating the another portion having the first language into said additional target language with said second 'lang' attribute as a key for machine translation.

**IX. EVIDENCE APPENDIX**

No evidence submitted pursuant to 37 C.F.R. §§ 1.130, 1.131, or 1.132 of this title or of any other evidence entered by the Examiner has been relied upon by Appellants in this Appeal, and thus no evidence is attached hereto.

**X. RELATED PROCEEDINGS APPENDIX**

The prior Decision by the Board in the present application dated September 28, 2006, is attached hereto.